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ABSTRACT

The authors criticize the regulations of P.L. 94-142, The Education For All Handicapped Children Act, regarding individualized education programs (IEPs). It is suggested that although the underlying concepts of IEPs are sound philosophically and educationally, the IEP in practice is inefficient in terms of time and actually detrimental to appropriate programming. The obstacles to making decisions via the IEP committee are considered, including excessive requirements for parent participation in decision making. A compromise approach is suggested that would encourage substantial parental involvement in the initial IEP and less intensive participation in subsequent IEPs. (CL)

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MODIFY THE PL 94-142 REGS. FOR I.E.P.'S

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On November 29, 1975, President Ford signed into law the Education for all Handicapped Children Act (generally referred to today as P.L. 94-142). This Act was basically a revision of Part B of the former Education of the Handicapped Act. The revision process involved a great deal of participation in the form of hearings, letters, lobbying by such groups as educators, parents, associations for the handicapped and handicapped individuals themselves.

P.L. 94-142 came out of an era of civil rights and reflects many of the due process procedures and assurances so often included in legislation of that type. Unlike its educational counterparts at both the federal and state levels, however, P.L. 94-142 is one of the most specific laws enacted regarding public education. Congress was not content to entrust a rather broad mandate to a department such as the Department of Health, Education and Welfare for regulations, but delineated specifically what was required. Largely through the efforts of the handicapped and their lobby, P.L. 94-142 contains within it the specific details usually reserved for the regulations which are promulgated after a law is enacted. While this has been seen by many as a marked achievement, it has posed unique problems for those charged with implementing the law. In large measure, 94-142 does not take into account the educational implications of carrying it out as written.

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The hallmark of this legislation in the eyes of parents and handicapped individuals was the provision relating to the I.E.P. - the individualized educational plan. Hailed as "a giant step for handicapped children" by its supporters, a closer analysis of its implemen-

tation indicates that it might more reasonably be evaluated as the single most critical detriment to appropriate programming for these children!

Why such a discrepancy in perception? The very specificity contained in the law, and even further laid out in the ensuing regulations, has led to the creation of a new bureaucracy within the public schools. The I.E.P. process, like many other bureaucratic functions, is usually described by such terms as a paperwork "monster"; an inefficient time consumer; an organizational device resulting in incremental decision-making at best.

Paradoxically the underlying concepts of the I.E.P. are sound - both philosophically and educationally. The problem is that "truth" carried beyond its logical relevance results in decisions that frequently are far removed from the basic knowledge that served as its foundation.

For example, the decision to include the I.E.P. process as such an integral part of special education programming grew out of a basic philosophical belief in participatory democracy. Participatory democracy is a long-standing tenet of government in this country and with the advent of the civil rights movement and consumer advocacy groups,has gained the forefront in judicial and legislative areas. Basically it refers to "the legal right or political opportunity of those affected by a public agency's decisions to participate in making those decisions." (Turnbull, p. 195) The doctrine of participatory democracy has in effect established the parents right to act on their child's behalf as shared decision makers in educational decisions. P.L. 94-142, through such provisions as open records and I.E.P.'s, brought into the forefront of education the consumers' (i.e. the parents on behalf of the child) right to informed and shared decision-making. Philosophically and morally, these "truths" could hardly be

denied.

The educational tenets underlying the I.E.P. process are equally sound and viable. This is best stated in the words of the Report of the House of Representatives (Report No. 94-332, Education of all Handicapped Children Act of 1975, June 26, 1975, p.13). "The movement toward the individualization of instruction, involving the participation of the child and the parent, as well as all relevant educational professions, is a trend gaining even wider support in educational, parental, and political groups throughout the nation." Research involving the need for and success of individually guided education has been extensive in the last twenty years. The concept of identifying the student's strengths and weaknesses and establishing an educational program that uses the child's strengths to ameliorate his weaknesses is accepted educational practice. Soliciting information from parents about their children's needs and interests and supplying information to them concerning their child's progress is the underlying principal of teacher-parent conferences and reporting procedures.

It is difficult to believe that any process grounded on such sound philosophical, moral and educational tenets could be accused of providing anything less than "an appropriate educational program for every handicapped child". To understand how this came about requires direct reference to the law itself and its subsequent regulations regarding parent involvement.

The Act contains a specific definition describing the components of an I.E.P. as

> "a written statement for each handicapped child developed... by a representative of the local education agency...who shall be qualified to provide...specifically designed instruction

to meet the unique needs of handicapped children...which statement shall include (A) a statement of the present levels of educational performance of such child, (B) a statement of the annual goals, including short-term instructional objectives, (C) a statement of the specific educational anticipated duration of such services, and appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved."
(Refer to Section 4(a) 19 of the Act.)

This one provision has resulted in more paperwork and a substantial diversion of the special education teacher's time from instruction to "form completion". A single child's I.E.P., for example, could run anywhere from five to fifteen pages depending on the extent of his involvement in regular education. Generally, the special education teacher would be the logical choice for writing the document since he/she would be primarily involved in implementing and monitoring it. However, the law clearly delineated that the document was to be the work of an I.E.P. committee. (Anyone who has ever worked on a committee to develop any type of mutually agreed upon written document can easily understand the problems with which this procedure is fraught!) In the years since its implementation, I.E.P. committees have generally been criticized by parents for both preparing too much and not enough for the meeting! If the I.E.P. coordinator brings to the meeting some carefully thought out and delineated objectives for implementing the child's instructional program, he/she is immediately in jeopardy of being accused of effectively eliminating the important role parents are to play in this process. If the I.E.P. coordinator shows up with a blank form ready to work

with the Committee in formalizing an appropriate plan, the parent is just as likely to accuse the school of abdicating its responsibility to plan the best educational program (After all, that's why we hired these teachers, isn't it?).

Particularly difficult are the cases where parents admit that their children need academic help but are unwilling to admit that these academic problems are due in large measure to emotional and/or behavioral difficulties. An I.E.P. developed to address behavior as the primary issue is often difficult for the parent to accept. The only option now available to parents is to invoke the due process procedures included in the law. Realistically, this procedure results in a great deal more paperwork and loss of time in trying to meet the exceptional needs of the child.

Time has also become an overriding issue in the I.E.P. process. It has been conservatively estimated that the amount of time involved in the planning, writing and meeting stage of the I.E.P. is nearly five hours per child. And this is when everything works absolutely smoothly - which is amost never!.

The burden of responsibility for involving parents in this process lies with the educational agency. Once again the procedures that must be followed in implementing this provision are extensive and specific and outlined as follows in the regulations:

"(a) Each public agency shall take steps to insure that one or both of the parents of the handicapped child are present at each meeting or are afforded the opportunity to participate, including:

(1) Notifying parents of the meeting early enough to insure that they will have an opportunity to attend; and

(2) Scheduling the meeting at a mutually agreed on time and place.

(b) The notice must indicate the purpose, time, and location of the meeting, and who will be in attendance.

(c) If neither parent can attend, the public agency shall use other methods to insure parent participation, including individual or conference telephone calls.

(d) A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case the public agency must have a record of its attempts to arrange a mutually agreed on time and place such as:

(1) Detailed records of telephone calls made or attempted and the results of those calls.

(2) Copies of correspondence sent to the parents and any responses received, and

(3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

(e) The public agency shall take whatever action is necessary to insure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

(f) The public agency shall give the parent, on request, a copy of the individualized education program."

In the case of a reluctant or recalcitrant parent, this single provision can add up to five or more additional hours to the I.E.P. process for any one child.

The I.E.P. is also not a static document but one which must be constantly and continuously revised. The law is once again quite specific in this respect stating that I.E.P's must be periodically revised at least annually and whenever any substantial change is made in the child's program. It is this provision regarding "substantial"

change which is presently generating a great deal of controversy. Exactly what constitutes a "substantial" program change is one of the few things open for interpretation under the law.

Based on this extremely limited analysis of only one portion of P.L. 94-142, it can be readily seen that the implementation of this legislation has had some far reaching consequences on the education of handicapped students - consequences not always in their best interest. Valuable time has been diverted from instruction to paperwork to meet the substantial procedural demands of the law. Parents have been asked to share as equals in making important curriculum and educational decisions for their child - a role many find unappealing and unreasonable. Committees - for diagnosing, planning, and evaluating - have become the primary decision-making model. And meetings have become the largest single consumer of educators' time!

Sound educational and philosophical concepts have been carried that "one step beyond" which many writers have warned against.

Certainly parents have a right to be informed of the educational program planned for their children and should be encouraged to participate in facilitating the accomplishment of the goals set. Parents also have a right to redress if they feel the program has been ineffectively planned or implemented. However, this endless round of meetings and compromises fostered by the legislation must be stopped. The very children who need their teachers the most are losing them to I.E.P. planning sessions and conferences. If we hire teachers for their expertise in planning for and teaching our children, we must allow them to get on with the process. Today's handicapped children have "more rights" but we find in retrospect that the price they pay is "less education".

Many parents are starting to complain of the endless meetings

to which they are subjected once their children are identified as handicapped. In many cases, by the third or fourth I.E.P. conference, their comment is, "Just put it in the mail and I'll sign and return it!.

The pendulum seems to have swung too far from virtually no parent involvement to absolute parental authority. The answer? The I.E.P. is seen as too valuable a document to simply abandon. The solution must lie in the development of a sane, rational process for its implementation. Perhaps a middle road which encourages substantial parental involvement in the initial I.E.P. and less intensive participation in subsequent ones would be appropriate. Something must be done - and soon, for we are presently spending as much time talking about the program we intend to implement as we are in its implementation.

Finally, if this problem is resolved satisfactorilly, we may be able to move on to I.E.P.'s for the Gifted and Talented and ultimately for all children.

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